



COMMONWEALTH OF MASSACHUSETTS  
**Board of Registration  
of  
Hazardous Waste Site Cleanup Professionals**

**MINUTES  
of  
BOARD MEETING**

Held on  
**October 31, 2007**

Meeting Location: Department of Environmental Protection  
Northeast Regional Office  
105B Lowell Street  
Wilmington, Mass.

Prepared by: A. Fierce

[Approved: November 29, 2007]

1. **Call to Order:** Chairperson Janine Commerford called the meeting to order at 11:40 a.m. The other Board members present were Gail Batchelder, Kirk Franklin, Christophe Henry, Paul Mullen, Kelley Race, and Debra Stake. Board members Deborah Farnsworth, Gretchen Latowsky, Robert Luhrs, and Debbie Phillips were absent. The LSP Board staff members present were Allan Fierce, Ron Viola, Terry Wood, Lynn Read, Brian Quinlan, and Al Wyman. Also present was Wes Stimpson, the Executive Director of the LSP Association.
2. **Announcements:** The group welcomed Ron Viola, who joined the LSP staff on October 9<sup>th</sup> as the Program Coordinator.
3. **Agenda:** The Board members agreed to follow the Agenda as drafted.
4. **Minutes:** The Board reviewed the draft minutes of the meeting of the Board held on September 12, 2007. **A motion was made and seconded to approve the minutes as drafted. The motion was approved unanimously.**
5. **Report from Quasi-Judicial Sessions – Final Disciplinary Actions Taken:** Ms. Commerford requested and received unanimous consent to publish in the minutes of this meeting the following two reports from previous quasi-judicial sessions.

**Dismissal of Complaint 04C-02(d)**

At a quasi-judicial session held on May 23, 2007, the members of the Complaint Review Team ("CRT") for Complaint 04C-02(d) (Mr. Franklin, Ms. Race, and Ms. Read) presented their Report summarizing the findings of their preliminary investigation of this Complaint. During this presentation, the LSP's name was not disclosed.

The following eight non-recused members of the Board were also present and participated in this quasi-judicial session: Ms. Batchelder, Ms. Commerford, Ms. Farnsworth, Mr. Henry, Ms. Latowsky, Mr. Mullen, Ms. Phillips, and Ms. Stake. Mr. Luhrs was absent.

The members of the CRT explained that this LSP was one of five LSPs named in Complaint 04C-02, filed by MassDEP. The release at issue was at a gas station, and it had impacted a residential drinking water well. MassDEP had imposed IRA conditions regarding the drinking water at the residence. These conditions included, among others, that the residence be connected permanently to town water. The Complaint alleged, *inter alia*, that the five LSPs had made misleading statements in submissions to MassDEP regarding whether these IRA conditions had been met. This LSP was the fourth of the five successive LSPs named in the Complaint.

At prior quasi-judicial sessions, the Board had resolved this Complaint as to the other four LSPs by dismissing it as to the first LSP, entering into an ACO with the second (a former LSP who agreed in the ACO not to reapply), dismissing the Complaint with a warning as to the third LSP, and dismissing the Complaint as to the fifth LSP.

At the conclusion of the CRT's presentation, the CRT members left the room. The eight remaining Board members then discussed the report. **At the conclusion of discussion, a motion was made and seconded that (1) based on the preliminary investigation, sufficient grounds do not exist to take disciplinary action against this LSP and (2) the Complaint should be dismissed with a warning. The motion was approved by a unanimous vote of 8-0.**

A dismissal letter with a warning was subsequently signed and mailed to the LSP.

Now that this Complaint has been dismissed as to this LSP, the LSP's name, Brian Woodworth, can be made public.

\*\*\*\*\*

**Administrative Consent Order re: Complaints 00C-18 and 07C-04**

At a quasi-judicial session held on July 30, 2007, the CRT members for Complaints 00C-18 and 07C-04 (Ms. Batchelder, Mr. Luhrs, and Ms. Read) presented the terms of a proposed agreement for discipline that, if approved, would resolve this Complaint prior to the presentation of a CRT Report or the issuance of an Order To Show Cause. During the presentation, the LSP's name was not disclosed.

The other members of the Board who were present were as follows: Ms. Commerford, Mr. Franklin, Mr. Henry, Ms. Latowsky, Ms. Phillips, and Ms. Race. Ms. Farnsworth, Mr. Mullen, and Ms. Stake were absent. No members were recused.

The CRT members briefly explained that they had been investigating both (a) the allegations presented by the two Complaints and (b) possible violations at two additional sites.

The CRT members said that they had not yet fully concluded their investigation or drafted a CRT report. But, they said, they had substantially completed their investigation and had formed enough of an opinion to join with the Respondent LSP in presenting a joint, proposed agreement for discipline for the Board's review and approval.

The CRT and the LSP agreed that the following terms would be acceptable to both sides:

- A 2-year suspension of license;
- A requirement to obtain 24 credits of approved continuing education before reinstatement of license; and
- LSP must also take and pass exam (but not reapply) to obtain reinstatement of license.

In addition, the CRT said, the LSP had voluntarily ceased rendering LSP Opinions on June 22, 2007, as a gesture of his/her willingness to accept discipline and resolve this matter promptly.

Mr. Luhrs presented an overview of the CRT's preliminary conclusions and explained why the CRT supported this proposed resolution. He concluded by stating that the CRT believed these terms to be a very fair and equitable resolution for this case.

After answering questions about the proposed resolution, the CRT members were recused and left the room.

Thereupon, the Board discussed the proposed agreement for discipline. It was the consensus of the members present that if the LSP accepted the following implementing requirements, the proposed agreement for discipline would be acceptable:

- The LSP can take the exam no sooner than 90 days before the end of the suspension period.
- Normal exam rules apply, e.g., if the LSP fails the exam, s/he must wait at least 90 days before retaking the exam.
- If the LSP does not pass the exam within two years of his/her first eligibility to take it, s/he must reapply.
- The CRT shall specify in the ACO what course content areas the 24 additional credits must be obtained in. These credits are to be obtained at Board-approved courses, not conferences.

**At the conclusion of the discussion, a motion was made and seconded to approve the terms of the proposed agreement for discipline on the condition that the LSP accepts the**

**implementing requirements noted above. The members present approved the motion unanimously.**

Thereafter, the LSP agreed to the implementing terms, and an ACO incorporating this outcome was signed by the respondent LSP and the Board on September 6, 2007. The suspension of the LSP's license took effect at the close of business that day.

Throughout this discussion, the Respondent LSP's name was kept confidential. Now that these Complaints have been resolved, the LSP's name, Henry Lord, is being made public.

6. **Decisions Regarding License Applicants:** The staff presented the following Application Docket:

|   |                |       |                   |                  |
|---|----------------|-------|-------------------|------------------|
| <u>Docket No. 1:</u> The applicant's name, company name, application number, and Application Review Panel recommendation were read into the record: |                |       |                   |                  |
| Stephen A. Vetere   | Tetra Tech NUS | #3507 | <u>ARP</u><br>206 | <u>REC.</u><br>A |

No Board members were recused.

**A motion was made and seconded that the Board accept the recommendation from Application Review Panel #206, i.e., that the application submitted by Mr. Vetere be accepted and that he be found eligible to take an exam. The motion was approved unanimously.**

7. **License Renewal Applications:** The staff presented the following License Renewal Dockets:

| <b>Renewal Docket #1</b>               |                       |       |
|--|-----------------------|-------|
| Renewal Date: Oct. 30, 2007            |                       |       |
| Have met all requirements for renewal. |                       |       |
| New Renewal Date: Oct. 30, 2010        |                       |       |
| 1.                                     | Bakinowski, Andrew W. | #5408 |
| 2.                                     | Beaulieu, Paul G.     | #9999 |
| 3.                                     | Bennett, David C.     | #4303 |
| 4.                                     | Bursaw, Margaret S.   | #9285 |
| 5.                                     | Butler, Brian T       | #5736 |
| 6.                                     | Charron, Steven D.    | #7303 |
| 7.                                     | Doherty, James D.     | #3984 |
| 8.                                     | Elliott, James M.     | #6914 |
| 9.                                     | Hansel, Kelly M.      | #8467 |
| 10.                                    | Hevner, Thomas B.     | #3635 |
| 11.                                    | Jason, Susan A.       | #1580 |

Minutes of LSP Board Meeting, October 31, 2007

|     |                    |       |
|-----|--------------------|-------|
| 12. | Koll, Caron S.     | #6889 |
| 13. | Leifer, Anne L     | #7730 |
| 14. | McDermott, Kenneth | #5830 |
| 15. | Postma, Frank B.   | #2563 |
| 16. | Toder, Daniel R.   | #9993 |

**Renewal Docket #2**

Original Renewal Date: April 30, 2007  
License lapsed after 90-day extension on 7/29/07.  
Has now met all requirements for renewal.  
New Renewal Date: Jan. 30, 2011

- |    |                |       |
|----|----------------|-------|
| 1. | Falk, Linda S. | #8624 |
|----|----------------|-------|

**Renewal Docket #3**

Renewal Date: July 30, 2007  
Received a 90-day extension.  
Has now met all requirements for renewal.  
New Renewal Date: July 30, 2010

- |    |                |       |
|----|----------------|-------|
| 1. | Longval, Brian | #4057 |
|----|----------------|-------|

**A motion was made and seconded to renew the licenses of the LSPs on Renewal Dockets #1, #2, and #3 for a three-year period ending on the dates indicated. The motion was approved unanimously.**

**8. Other Licensing-Related Matters:**

- A. New Panel Assignments and Scheduling.** Mr. Quinlan sought and obtained volunteers for Application Review Panel #207 (Ms. Commerford, Mr. Franklin, and Ms. Race).
- B. Appeals Status Report.** Ms. Wood reported that there are no pending appeals regarding the Board's denial of a license application.
- C. Inactive Status Report.** The staff reported that no LSPs have been placed on Inactive Status since the previous meeting. Also, none of the seven LSPs on Inactive Status have resumed Active status since the previous meeting.
- D. Total Number of Active LSPs.** Mr. Fierce reported that the total number of Active LSPs as of the date of this meeting was 563.

9. **Examinations:**

- A. **New Licensees.** Mr. Fierce reported that there are no new licensees because the exam has not been administered since the previous meeting.
- B. **Next LSP Exam.** The Board directed that the next exam be scheduled as soon as the revised, updated exams are ready, which should be at the end of November or early December 2007.
- C. **LSP Exam Update Project.** Mr. Fierce reported that the Technical Advisors are scheduled to meet on November 2<sup>nd</sup> to review and finalize the updated versions of the exam.

10. **Continuing Education Committee Report:**

- A. **Course and Conference Approval Requests.** Mr. Henry reported that the Committee had met earlier in the day and had the following course and conference recommendations to present to the full Board:

Sponsor: Air & Waste Management Association (AWMA)

Conference Title: Vapor Intrusion: Learning from the Challenges and 4 associated courses:

- AIR-206: Sampling and Analysis Methods for Vapor Intrusion (3.5 Technical non-DEP credits);
- AIR-207: Design Considerations for the Mitigation of Vapor Intrusion (3.5 Technical non-DEP credits);
- AIR-274: Vapor Intrusion Pathway Modeling: Development and Application (3.5 Technical non-DEP credits); and
- AIR-268: Data Evaluation for Vapor Intrusion Studies (3.5 Technical non-DEP credits)

Credits Requested: Conference (1:2) credits for conference, plus (1:1) credits noted above for each course listed.

Committee Recommendation: **Approve for credits requested.**

Sponsor: MassDEP

Course Title: Regulatory Expectations and Guidelines for the Vapor Intrusion Pathway

Credits Requested: 2.0 DEP Course / Regulatory credits

Committee Recommendation: **Approve for credits requested.**

Sponsor: Nielsen Environmental Field School

Conference Title: 2008 North American Environmental Field Conference & Exposition

Credits Requested: Conference credit (1:2)

Committee Recommendation: **Approve for conference credit (1:2).**

**A motion was made and seconded to accept the Committee's recommendations. The motion was approved unanimously.**

**B. Other Business.** Mr. Henry reported no other committee business to the full Board.

11. **Professional Conduct Committee:** Since all the Board members present at this meeting were also present at the Professional Conduct Committee meeting held earlier in the day, the Board agreed to forego a Committee report.

12. **Personnel, Budget, and Fees:**

**A. Personnel Report.** Mr. Fierce reported that Ronald Viola, the new Program Coordinator, started on October 9, 2006.

Mr. Fierce also reported that on October 1<sup>st</sup> Ms. Wood, the Board's General Counsel, returned to full-time status, working a 4-day week with Tuesdays off.

**B. Budget.** Mr. Fierce reported that state agencies are in the process of submitting their FY-09 budget requests to the Governor's office.

**C. Fees.** Mr. Fierce said he had no new information to report about fees.

13. **Status of Board Member Replacements by Governor:** Ms. Commerford reported that she has asked MassDEP's Commissioner to urge the Secretary of EOEEA to encourage the Governor to promptly appoint the individuals recommended.

14. **Next Article for LSPA News:** The next deadline for the submission of articles is November 30, 2007. The staff intends to write about the informal guidance letter sent by the Board in response to Advisory Ruling Request No. 07-01.

15. **Scheduling of Next Meeting:** The Board agreed to hold its next meeting on the morning of Thursday, November 29, 2007, at MassDEP's Central Regional Office. The Board also agreed to hold its following meeting in the afternoon of Wednesday, January 9, 2008, at Weston & Sampson in Peabody.

16. **Adjournment:** The meeting was adjourned at approximately 11:55 p.m.